

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MACSTEEL INTERNATIONAL USA CORP.

Case No.: 22-cv-7877

Plaintiff,

**VERIFIED
COMPLAINT**

-against-

WESTERN BULK CARRIERS AS, *in personam*, and
M/V SUNRISE *in rem*,

Defendants.

Plaintiff Macsteel International USA Corp. (“Macsteel”), by and through its attorneys, Nicoletti Hornig & Sweeney, as and for its Verified Complaint against Defendants Western Bulk Carriers, AS (“WBC”), *in personam*, and M/V SUNRISE, *in rem*, alleges upon information and belief as follows:

1. Plaintiff Macsteel is a corporation organized and existing under the laws of the state of Delaware with an office and place of business in White Plains, New York.
2. Defendant WBC is a business entity organized and existing under the laws of a foreign country with an office and place of business in Oslo, Norway.
3. Defendant M/V SUNRISE is a Liberian flagged vessel which is, or during the time this suit is pending will be, within the jurisdiction of this Court.
4. Plaintiff Macsteel, as charterer, and defendant WBC, as owner, entered into a GENCON charter party dated May 28, 2021 which provided for the contract to be interpreted in accordance with the general maritime law of the United States applicable to charter party disputes in New York and that claims covering all USA and Canada bound cargo shall be subject to the exclusive jurisdiction of this Court and that plaintiff and defendant consent to the personal jurisdiction of this Court.

5. The following issues come within the jurisdiction of this Court pursuant to 28 U.S.C. Sect. 1333 and are admiralty and maritime claims within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

6. Defendant M/V SUNRISE (the “Vessel”) was nominated by or on behalf of defendant WBC to perform the contracted for voyage pursuant to the charter party between plaintiff Macsteel and defendant WBC.

7. Defendant M/V SUNRISE loaded cargoes of wire rods in coil and galvanized steel coils at Alexandria, Egypt from August 8 to August 17, 2021.

8. On or about August 14, 2021, the master of defendant M/V SUNRISE signed and issued CONGEN bills of lading WBCP0008738 through WBCP0008743 for 17,879 metric tons of rolled steel wire rods in coils and galvanized steel coils. The bills of lading incorporated the May 28, 2021 charter party between plaintiff Macsteel and defendant WBC.

9. On or about September 17 to 23, 2021, defendant M/V SUNRISE discharged the cargo at New Orleans, Louisiana in a short and damaged condition due to improper stowage in the Vessel’s cargo holds.

10. As a result of the shortage and the damaged condition of the cargo, Macsteel has suffered the following damages:

Shortage	\$28,279.25
Damaged Coils	\$11,163.72
Re-banding 160 Coils	\$9,600.00
Barge Demurrage	<u>\$25,800.00</u>
Total	\$74,842.97

11. As a result of the shortage and the damaged condition of the cargo at discharge, plaintiff Macsteel has suffered damages in the amount no less than \$74,842.97, no part of which has been paid although duly demanded.

12. Defendant WBC breached the charter party between plaintiff Macsteel and defendant WBC by failing to deliver the cargo in full and in sound condition or otherwise breached the charter party.

13. Defendant M/V SUNRISE is liable for the shortage and the damaged condition of the cargo carried on the Vessel, thereby creating a maritime lien on the Vessel in favor of plaintiff Macsteel that said plaintiff is entitled to enforce by judicial sale.

14. All obligations under the charter party between Macsteel and defendant WBC to be performed on the part of plaintiff Macsteel were performed, waived or otherwise excused.

WHEREFORE, Plaintiff Macsteel International USA Corp. demands judgment against Defendants Western Bulk Carriers AS and the M/V SUNRISE in the sum of \$74,842.97, together with the costs and disbursements of this action, prays that this Court issue a warrant pursuant to Federal Supplemental Admiralty and Maritime Rule C directing the United States Marshal to arrest defendant M/V SUNRISE, that all persons claiming interest in said Vessel be cited to appear and answer the matters stated herein and that the Vessel be condemned and sold to satisfy the judgment, and such other, further and/or different relief as this Honorable Court may deem just, proper and/or equitable.

Dated: New York, NY
September 14, 2022

Nicoletti Hornig & Sweeney
Attorneys for Plaintiff

Terry L Stoltz

Terry L Stoltz
Kevin J. O'Malley
Wall Street Plaza
88 Pine Street, 7th Floor
New York, NY 10005
Telephone: (212) 220-3830
Facsimile: (212) 220-3780
Email: tstoltz@nicolettihornig.com
komalley@nicolettihornig.com

VERIFICATION

STATE OF NEW YORK }
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ss:

COUNTY OF NEW YORK }
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TERRY L. STOLTZ, being duly sworn, deposes and says:

I am the attorney for Plaintiff Macsteel International USA Corp., with responsibility for pursuing the claim referred to in the Verified Complaint. The foregoing Verified Complaint is true to my knowledge and belief, except as to matters alleged upon information and belief, and as to those matters, I believe them to be true. I make this Verification on behalf of Plaintiff because Plaintiff is a corporation organized and existing under the laws of the State of Delaware with an office and principal place of business located in White Plains, New York and does not have any offices or managing agents readily available in the District.

Terry L. Stoltz
TERRY L. STOLTZ

TERRY L STOLTZ

Subscribed and sworn to before me
this 14th day of September 2022

Michelle Maniscales
NOTARY PUBLIC

